**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.**

Crl. Misc. No. 72130-M of 2006

DATE OF DECISION : 08.01.2007

Sita Ram

**....** PETITIONER

Versus

State of Haryana

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Deepak K. Sharma, Advocate,
for the petitioner.

Mr. Partap Singh, Senior D.A.G., Haryana.

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Petitioner Sita Ram has filed this petition under Section 439 of the Code of Criminal Procedure for the grant of regular bail in case FIR No. 37 dated 27.2.2006 registered under Section 306/34 IPC at Police Station Sadar Tohana, District Fatehabad.

I have heard counsel for the parties and gone through the contents of the FIR as well as the order dated 30.8.2006, passed by Additional Sessions Judge, Fatehabad, whereby bail application of the petitioner has been dismissed.

The aforesaid FIR was registered on the statement made by Smt. Sikori, mother of deceased Ram Kumar, who is alleged to have committed suicide. In the FIR, it has been alleged that the petitioner was having illicit relations with Birkha wife of Ram Kumar and being upset over the said relations, he committed suicide.

Counsel for the petitioner contends that except the statement of mother of the deceased, her daughter and son-in-law to the effect that the deceased was upset over the illicit relations of his wife with the petitioner, there is no material collected during the investigation. He further contends

that in the instant case, there was no abatement on the part of the petitioner and the allegations are totally false. Even the allegations made against the petitioner do not fall under the definition of abatement. Counsel further contends that abatement under IPC involves active complicity on the part of the abettor at a point of time prior to the actual commission of offence and it is of the essence of the crime of abatement that the abettors should substantially assist the principal culprit towards the commission of the offence, and in this case, no such material has been collected during investigation. In support of his contention, counsel for the petitioner has relied upon a decision of this Court in Bara Singh v. Gurmit Kaur, 1998 (3) RCR (Crl.) 143, a decision of the Madhya Pradesh High Court in Alka Grewal v. State of M.P., 2000 Cri. L.J. 672 and Sanju alias Sanjay Singh Sengar v. State of M.P., AIR 2002 SC 1998.

Counsel for the petitioner submits that the petitioner is in custody since 5.5.2006 and wife of the deceased has already been granted bail by this Court vide order dated November 14, 2006, passed in Crl. Misc. No. 64729-M of 2006. Challan in the aforesaid FIR has been filed, but charge has not been framed so far. The trial is not going to conclude soon.

Keeping in view the above said facts, without expressing any opinion on the merits of the case, I deem it appropriate to grant regular bail to the petitioner and he is accordingly ordered to be released on bail to the satisfaction of the trial court.

**January 08, 2007** **( SATISH KUMAR MITTAL )**
ndj **JUDGE**